

SECOND REGULAR SESSION

SENATE BILL NO. 867

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 29, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

6076S.011

AN ACT

To repeal section 105.470, RSMo, and to enact in lieu thereof one new section relating to ethics.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 105.470, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 105.470, to read as follows:

105.470. As used in section 105.473, unless the context requires otherwise,
2 the following words and terms mean:

3 (1) "Elected local government official lobbyist", any natural person
4 employed specifically for the purpose of attempting to influence any action by a
5 local government official elected in a county, city, town, or village with an annual
6 operating budget of over ten million dollars;

7 (2) "Executive lobbyist", any natural person who acts for the purpose of
8 attempting to influence any action by the executive branch of government or by
9 any elected or appointed official, employee, department, division, agency or board
10 or commission thereof and in connection with such activity, meets the
11 requirements of any one or more of the following:

12 (a) Is acting in the ordinary course of employment on behalf of or for the
13 benefit of such person's employer; or

14 (b) Is engaged for pay or for any valuable consideration for the purpose
15 of performing such activity; or

16 (c) Is designated to act as a lobbyist by any person, business entity,
17 governmental entity, religious organization, nonprofit corporation, association or
18 other entity; or

19 (d) Makes total expenditures of fifty dollars or more during the
20 twelve-month period beginning January first and ending December thirty-first for

21 the benefit of one or more public officials or one or more employees of the
22 executive branch of state government in connection with such activity.

23 An "executive lobbyist" shall **include site consultants but shall** not include
24 a member of the general assembly, an elected state official, or any other person
25 solely due to such person's participation in any of the following activities:

26 a. Appearing or inquiring in regard to a complaint, citation, summons,
27 adversary proceeding, or contested case before a state board, commission,
28 department, division or agency of the executive branch of government or any
29 elected or appointed officer or employee thereof;

30 b. Preparing, filing or inquiring, or responding to any audit, regarding any
31 tax return, any public document, permit or contract, any application for any
32 permit or license or certificate, or any document required or requested to be filed
33 with the state or a political subdivision;

34 c. Selling of goods or services to be paid for by public funds, provided that
35 such person is attempting to influence only the person authorized to authorize or
36 enter into a contract to purchase the goods or services being offered for sale;

37 d. Participating in public hearings or public proceedings on rules, grants,
38 or other matters;

39 e. Responding to any request for information made by any public official
40 or employee of the executive branch of government;

41 f. Preparing or publication of an editorial, a newsletter, newspaper,
42 magazine, radio or television broadcast, or similar news medium, whether print
43 or electronic;

44 g. Acting within the scope of employment by the general assembly, or
45 acting within the scope of employment by the executive branch of government
46 when acting with respect to the department, division, board, commission, agency
47 or elected state officer by which such person is employed, or with respect to any
48 duty or authority imposed by law to perform any action in conjunction with any
49 other public official or state employee; or

50 h. Testifying as a witness before a state board, commission or agency of
51 the executive branch;

52 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill
53 incurred; any gift, honorarium or item of value bestowed including any food or
54 beverage; any price, charge or fee which is waived, forgiven, reduced or
55 indefinitely delayed; any loan or debt which is canceled, reduced or otherwise
56 forgiven; the transfer of any item with a reasonably discernible cost or fair

57 market value from one person to another or provision of any service or granting
58 of any opportunity for which a charge is customarily made, without charge or for
59 a reduced charge; except that the term "expenditure" shall not include the
60 following:

61 (a) Any item, service or thing of value transferred to any person within
62 the third degree of consanguinity of the transferor which is unrelated to any
63 activity of the transferor as a lobbyist;

64 (b) Informational material such as books, reports, pamphlets, calendars
65 or periodicals informing a public official regarding such person's official duties,
66 or souvenirs or mementos valued at less than ten dollars;

67 (c) Contributions to the public official's campaign committee or candidate
68 committee which are reported pursuant to the provisions of chapter 130;

69 (d) Any loan made or other credit accommodations granted or other
70 payments made by any person or entity which extends credit or makes loan
71 accommodations or such payments in the regular ordinary scope and course of
72 business, provided that such are extended, made or granted in the ordinary
73 course of such person's or entity's business to persons who are not public officials;

74 (e) Any item, service or thing of de minimis value offered to the general
75 public, whether or not the recipient is a public official or a staff member,
76 employee, spouse or dependent child of a public official, and only if the grant of
77 the item, service or thing of de minimis value is not motivated in any way by the
78 recipient's status as a public official or staff member, employee, spouse or
79 dependent child of a public official;

80 (f) The transfer of any item, provision of any service or granting of any
81 opportunity with a reasonably discernible cost or fair market value when such
82 item, service or opportunity is necessary for a public official or employee to
83 perform his or her duty in his or her official capacity, including but not limited
84 to entrance fees to any sporting event, museum, or other venue when the official
85 or employee is participating in a ceremony, public presentation or official meeting
86 therein;

87 (g) Any payment, gift, compensation, fee, expenditure or anything of value
88 which is bestowed upon or given to any public official or a staff member,
89 employee, spouse or dependent child of a public official when it is compensation
90 for employment or given as an employment benefit and when such employment
91 is in addition to their employment as a public official;

92 (4) "Judicial lobbyist", any natural person who acts for the purpose of

93 attempting to influence any purchasing decision by the judicial branch of
94 government or by any elected or appointed official or any employee thereof and
95 in connection with such activity, meets the requirements of any one or more of the
96 following:

97 (a) Is acting in the ordinary course of employment which primary purpose
98 is to influence the judiciary in its purchasing decisions on a regular basis on
99 behalf of or for the benefit of such person's employer, except that this shall not
100 apply to any person who engages in lobbying on an occasional basis only and not
101 as a regular pattern of conduct; or

102 (b) Is engaged for pay or for any valuable consideration for the purpose
103 of performing such activity; or

104 (c) Is designated to act as a lobbyist by any person, business entity,
105 governmental entity, religious organization, nonprofit corporation or association;
106 or

107 (d) Makes total expenditures of fifty dollars or more during the
108 twelve-month period beginning January first and ending December thirty-first for
109 the benefit of one or more public officials or one or more employees of the judicial
110 branch of state government in connection with attempting to influence such
111 purchasing decisions by the judiciary. A "judicial lobbyist" shall not include a
112 member of the general assembly, an elected state official, or any other person
113 solely due to such person's participation in any of the following activities:

114 a. Appearing or inquiring in regard to a complaint, citation, summons,
115 adversary proceeding, or contested case before a state court;

116 b. Participating in public hearings or public proceedings on rules, grants,
117 or other matters;

118 c. Responding to any request for information made by any judge or
119 employee of the judicial branch of government;

120 d. Preparing, distributing or publication of an editorial, a newsletter,
121 newspaper, magazine, radio or television broadcast, or similar news medium,
122 whether print or electronic; or

123 e. Acting within the scope of employment by the general assembly, or
124 acting within the scope of employment by the executive branch of government
125 when acting with respect to the department, division, board, commission, agency
126 or elected state officer by which such person is employed, or with respect to any
127 duty or authority imposed by law to perform any action in conjunction with any
128 other public official or state employee;

129 (5) "Legislative lobbyist", any natural person who acts for the purpose of
130 attempting to influence the taking, passage, amendment, delay or defeat of any
131 official action on any bill, resolution, amendment, nomination, appointment,
132 report or any other action or any other matter pending or proposed in a
133 legislative committee in either house of the general assembly, or in any matter
134 which may be the subject of action by the general assembly and in connection
135 with such activity, meets the requirements of any one or more of the following:

136 (a) Is acting in the ordinary course of employment, which primary purpose
137 is to influence legislation on a regular basis, on behalf of or for the benefit of such
138 person's employer, except that this shall not apply to any person who engages in
139 lobbying on an occasional basis only and not as a regular pattern of conduct; or

140 (b) Is engaged for pay or for any valuable consideration for the purpose
141 of performing such activity; or

142 (c) Is designated to act as a lobbyist by any person, business entity,
143 governmental entity, religious organization, nonprofit corporation, association or
144 other entity; or

145 (d) Makes total expenditures of fifty dollars or more during the
146 twelve-month period beginning January first and ending December thirty-first for
147 the benefit of one or more public officials or one or more employees of the
148 legislative branch of state government in connection with such activity. A
149 "legislative lobbyist" shall include an attorney at law engaged in activities on
150 behalf of any person unless excluded by any of the following exceptions. A
151 "legislative lobbyist" shall not include any member of the general assembly, an
152 elected state official, or any other person solely due to such person's participation
153 in any of the following activities:

154 a. Responding to any request for information made by any public official
155 or employee of the legislative branch of government;

156 b. Preparing or publication of an editorial, a newsletter, newspaper,
157 magazine, radio or television broadcast, or similar news medium, whether print
158 or electronic;

159 c. Acting within the scope of employment of the legislative branch of
160 government when acting with respect to the general assembly or any member
161 thereof;

162 d. Testifying as a witness before the general assembly or any committee
163 thereof;

164 (6) "Lobbyist", any natural person defined as an executive lobbyist,

165 judicial lobbyist, elected local government official lobbyist, or a legislative
166 lobbyist;

167 (7) "Lobbyist principal", any person, business entity, governmental entity,
168 religious organization, nonprofit corporation or association who employs, contracts
169 for pay or otherwise compensates a lobbyist;

170 (8) "Public official", any member or member-elect of the general assembly,
171 judge or judicial officer, or any other person holding an elective office of state
172 government or any agency head, department director or division director of state
173 government or any member of any state board or commission and any designated
174 decision-making public servant designated by persons described in this
175 subdivision;

176 (9) "Site consultant", any person who, for valuable consideration,
177 contacts the department of economic development to determine the tax
178 incentives and economic development programs available to a business
179 interested in locating in the state or relocating within the state.

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